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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 SWIRE PACIFIC HOLDINGS, INC.,

11 Plaintiff,

12 v.

13 JAMES JONES, and JEFFREY R. CAFFEE  
14 LEGAL, PLLC, d/b/a THE LAW OFFICES  
15 OF JEFFREY R. CAFFEE,

16 Defendants.

Case No. C19-1329RSM

MINUTE ORDER

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18 The following MINUTE ORDER is made by direction of the Court, the Honorable  
19 Ricardo S. Martinez, Chief United States District Judge: On August 22, 2019, Plaintiff Swire  
20 Pacific Holdings, Inc., d/b/a Swire Coca-Cola, USA (“Swire”) filed a Motion for a Temporary  
21 Restraining Order (“TRO”) against Defendants James Jones and Jeffrey R. Caffee. Dkt. #2.  
22 The Motion seeks an order enjoining them from “disbursing or otherwise dissipating proceeds  
23 recovered as a result of injuries sustained by Jones in a personal-injury accident on or about  
24 July 11, 2018 (“Accident”).” *Id.* at 1–2. Plaintiff alleges it is owed these funds under a  
25 subrogation provision to an ERISA Plan. *See* Dkt. #1 at 3. Plaintiff requests this Motion be  
26 heard without notice to Defendants because “such notice would likely enable Defendants to  
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1 dissipate the settlement funds before this Court can enter a temporary restraining order, and  
2 Plaintiff can serve Defendants with a copy of the Order.” Dkt. #3 at 1. Plaintiff indicates that  
3 his counsel attempted to contact attorney Caffee, counsel for James Jones, to provide notice of  
4 this Motion, but was unable to reach him. *Id.* at 2. Plaintiff has provided no other evidence of  
5 service.

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7 “The Court may issue a temporary restraining order without written or oral notice to the  
8 adverse party or its attorney only if specific facts in an affidavit or a verified complaint clearly  
9 show that immediate and irreparable injury, loss, or damage will result to the movant before the  
10 adverse party can be heard in opposition; and the movant’s attorney certifies in writing any  
11 efforts made to give notice and the reasons why it should not be required.” Fed. R. Civ. P.  
12 65(b)(1). The Court’s Local Rules otherwise allow for the adverse party or parties to file a  
13 Response to a TRO. *See* LCR 65(b)(5). The adverse party must file a notice “indicating  
14 whether it plans to oppose the motion within twenty-four hours after service of the motion,”  
15 and “file its response, if any, within forty-eight hours after the motion is served.” *Id.* No reply  
16 is permitted from Plaintiff. *Id.*

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19 “Unless the requirements of Fed. R. Civ. P. 65(b) for issuance without notice are  
20 satisfied, the moving party must serve all motion papers on the opposing party before or  
21 contemporaneously with the filing of the motion and include a certificate of service with the  
22 motion.” LCR 65(b)(1).

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24 The Court has reviewed Plaintiff’s Motion and finds it has failed to demonstrate that  
25 immediate and irreparable injury will result before Defendants can be heard in opposition. The  
26 only cited evidence is paragraph 16 of the Verified Complaint, which states simply: “[t]he  
27 disbursement of the Disputed Funds by the Law Firm without immediate relief from this Court  
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1 puts the Disputed Funds at imminent risk of being placed beyond the Court's ERISA  
2 jurisdiction." Dkt. #1 at ¶ 16. This is entirely conclusory. Plaintiff has presented no evidence  
3 that the funds will be disbursed in the next 48 hours. Even if disbursement placed the funds  
4 outside the Court's jurisdiction, Plaintiff does not explain how this would irreparably harm  
5 Plaintiff, who could presumably still pursue recovery of the funds. Accordingly, the Court will  
6 not grant *ex parte* relief and Defendants may file a response pursuant to Local Rule 65(b)(5).  
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8 Accordingly, the Court DIRECTS Plaintiff to serve a copy of all filings in this case on  
9 Defendants, including this Minute Order, by no later than noon on Friday, August 23, 2019,  
10 and to provide the Court with proof of service no later than 3 p.m. that same day.  
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12 Importantly, because Defendants will not receive timely notice of the TRO Motion, the  
13 Court will extend the deadlines for Defendants to file notices of intent to respond and to  
14 respond. **Defendants shall have until noon on August 26, 2019, to file notices and until**  
15 **noon on August 27, 2019, to file responses, if any.**  
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18 DATED this 22<sup>nd</sup> day of August, 2019.

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20 WILLIAM McCOOL, Clerk

21 By: /s/ Paula McNabb  
22 Deputy Clerk  
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